

D-619-CV-201400370 - Thursday, January 29, 2015

**Tonnie Mathis**  
**v.**  
**David L. Handley, et. al.**

**CASE DETAIL**

CASE #	CURRENT JUDGE	FILING DATE	COURT
D-619-CV-201400370	DeLaney, Jennifer E.	12/15/2014	DEMING District

**PARTIES TO THIS CASE**

PARTY TYPE	PARTY DESCRIPTION	PARTY #	PARTY NAME
D	Defendant	1	HANDLEY DAVID L.
D	Defendant	2	FEDERAL EXPRESS CORPORATION
D	Defendant	3	FEDEX FREIGHT, INC.
D	Defendant	4	FEDEX GROUND PACKAGE SYSTEM, INC.
P	Plaintiff	1	MATHIS TONNIE

ATTORNEY: SEGEL RONALD J.

**CIVIL COMPLAINT DETAIL**

COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
12/15/2014	1	OPN: COMPLAINT		

COA SEQ #	COA DESCRIPTION
1	Other

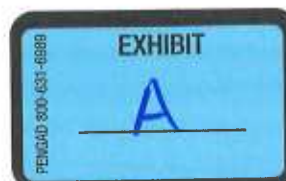
PARTY NAME	PARTY TYPE	PARTY #
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**REGISTER OF ACTIONS ACTIVITY**

EVENT DATE	EVENT DESCRIPTION	EVENT RESULT	PARTY TYPE	PARTY #	AMOUNT
01/08/2015	CERTIFICATE/ PROOF OF MAILING Certificate of Service - Federal Express, et al. 4 pgs		D	2	
01/08/2015	CERTIFICATE/ PROOF OF MAILING Certificate of Service - Service of Process David L. Handley 1st set of Interrogatories and request for Production to Defendant. 2 pgs		D	1	
12/19/2014					
12/19/2014					
12/19/2014					
12/19/2014					
12/15/2014	OPN: COMPLAINT Complaint for Damages for Injury: 3 pgs				

**JUDGE ASSIGNMENT HISTORY**

ASSIGNMENT DATE	JUDGE NAME	SEQ #	ASSIGNMENT EVENT DESCRIPTION
12/15/2014	DeLaney, Jennifer E.	1	INITIAL ASSIGNMENT





STATE OF NEW MEXICO  
COUNTY OF LUNA  
SIXTH JUDICIAL DISTRICT COURT

TONNIE MATHIS,

Plaintiff,

vs.

No. D-619-CV-2014-00370

DAVID L. HANDLEY, FEDERAL EXPRESS  
CORPORATION, FEDEX FREIGHT, INC., and  
FEDEX GROUND PACKAGE SYSTEM, INC.,

Defendants.

### COMPLAINT FOR DAMAGES FOR INJURY

1. Plaintiff is a resident of, and the acts and omissions which are the subject of this action occurred in, Luna County New Mexico.

2. Defendant David L. Handley ("Handley") is a non-resident of this state, but is subject to the jurisdiction of this Court pursuant to NMSA 1978, § 38-1-16 (A).

3. Defendants Federal Express Corporation, FedEx Freight, Inc., and FedEx Ground Package System (collectively, "the FedEx defendants") are corporations that regularly do business in New Mexico and that are subject to the jurisdiction of this Court pursuant to NMSA 1978, § 38-1-16 (A).

4. On October 3, 2014, Handley was an employee or agent of one or more of the FedEx defendants, engaged by that defendant or those defendants to operate a tractor trailer for the transportation of goods.

5. In the pre-dawn hours of October 3, 2014, Handley was driving a tractor-tandem trailer rig that was owned or operated by one or more of the FedEx defendants on westbound Interstate 10 near Deming, New Mexico.

6. Handley drove the tractor-tandem trailer rig negligently, causing the rig to overturn.

7. Handley was within the course and scope of his employment or agency relationship with one or more of the FedEx defendants, thereby making that defendant or those defendants liable for his negligence.

8. After the rig overturned, the tandem trailers blocked both westbound lanes of the highway.

9. Plaintiff was driving west on Interstate 10 and collided with the overturned trailers.

10. At the time of the collision, the overturned trailers were not illuminated and were not marked by warning lights or markers.

11. At the time of the collision, the overturned trailers were not reasonably visible to an approaching motorist traveling at normal highway speeds, such as plaintiff, until the approaching motorist was too close to the trailers to avoid a collision.

12. As a result of the negligence of Handley and of the collision, plaintiff's car was demolished, and plaintiff suffered personal injuries. Plaintiff's injuries resulted in past and future physical and emotional pain and suffering, past and future medical and related expense, and past and future loss of earnings.

13. Handley and one or more of the FedEx defendants are jointly and severally liable for plaintiff's losses and damages that were caused by the negligence of Handley.

14. At the time he overturned the rig he was driving, Handley was driving over the legally-allowable number of hours or while insufficiently rested, causing him to fall asleep while driving.

15. Handley's conduct was willful, reckless, or wanton, thereby making him liable to plaintiff for punitive damages.

16. One or more of the FedEx defendants knew or reasonably should have known that Handley was driving over the legally-allowable number of hours or while insufficiently rested, and thereby authorized, participated in or ratified the wrongful conduct of Handley. One or more of the FedEx defendants are therefore also liable to plaintiff for punitive damages.

WHEREFORE, plaintiff demands judgment against defendants, jointly and severally, for such compensatory and punitive damages as are reasonable, costs, and pre-judgment and post-judgment interest.

Respectfully submitted:

WILL FERGUSON & ASSOCIATES

/s/ Ronald Segel

RONALD SEGEL

*Attorneys for Plaintiff*

1720 Louisiana Blvd. NE, Suite 100

Albuquerque, NM 87110

Phone: 505 243-5566

Fax: 505 243-5699

[ron@fergusonlaw.com](mailto:ron@fergusonlaw.com)



SIXTH JUDICIAL DISTRICT  
LUNA COUNTY NM  
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Amy Cardenas

STATE OF NEW MEXICO  
COUNTY OF LUNA  
SIXTH JUDICIAL DISTRICT COURT

TONNIE MATHIS,

Plaintiff,

vs.

No. D-619-CV-2014-00370

DAVID L. HANDLEY, FEDERAL EXPRESS  
CORPORATION, FEDEX FREIGHT, INC., and  
FEDEX GROUND PACKAGE SYSTEM, INC.,

Defendants.

**CERTIFICATE OF SERVICE**

The undersigned counsel for plaintiff certifies that service of the Summons, Complaint for Damages for Injury, Plaintiff's 1<sup>st</sup> Set of Interrogatories and Plaintiff's 1<sup>st</sup> Set of Request for Production to Defendants Federal Express Corporation, Fedex Freight, Inc. and Fedex Ground Package System, Inc. was made to CT Corporation System, as registered agent by certified mail, return receipt requested, pursuant to Rule 1-004 (E)(3) NMRA, on December 30, 2014. The attached Exhibit 1 provides evidence of such service. The recipient of service by certified mail (Roland Atencio, as representative for Defendants Federal Express Corporation, Fedex Freight, Inc. and Fedex Ground Package, System, Inc., signed the return receipt on December 30, 2014.

Respectfully submitted,

WILL FERGUSON & ASSOCIATES

/s/ Ronald Segel  
RONALD SEGEL  
Attorneys for Plaintiff  
1720 Louisiana Blvd. NE, Suite 100  
Albuquerque, NM 87110  
(505) 243-5566 Telephone  
(505) 243-5699 Facsimile

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		A. Signature X <i>Robert Atencio</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:  Federal Express Corporation c/o CT Corporation System 123 E. Marcy St. Santa Fe, NM 87501		B. Received by (Printed Name) <i>Robert Atencio</i> C. Date of Delivery <i>12.30.14</i> D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
2. Article Number (Transfer from se) 7011 1570 0002 8104 2856		3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery	
PS Form 3811, July 2013		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

UNITED STATES POSTAL SERVICE

ALBUQUERQUE NM 87103 PM

03 JAN 2015

First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. 6-10

• Sender: Please print your name, address, and ZIP+4® in this box •

RECEIVED JAN 05 2014

WILL FERGUSON & ASSOCIATES  
Attn: *RS/Gen*  
1720 Louisiana Blvd NE, Suite 100  
Albuquerque, New Mexico 87110

*Mattis*

01/03



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature  X <i>Rolando Atencio</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name), <i>Rolando Atencio</i> C. Date of Delivery <i>12.30.14</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p>FEDEX Freight, Inc.  c/o CT Corporation System  123 E. Marcy St.  Santa Fe, NM 87501</p>	<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p>
<p>2. Article Number  (Transfer from service label).</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

PS Form 3811, July 2013 Domestic Return Receipt

UNITED STATES POSTAL SERVICE

ALBUQUERQUE NM 87101 PM

03 JAN 2014

First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box.

WILL FERGUSON & ASSOCIATES  
Attn: *RS/gem* RECEIVED JAN 05 2014  
1720 Louisiana Blvd NE, Suite 100  
Albuquerque, New Mexico 87110

*Months*

01/03



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
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<p>1. Article Addressed to:</p> <p>EDEX Ground Package System, Inc.  c/o CT Corporation System  123 E. Marcy St.  Santa Fe, NM 87501</p>		<p>B. Received by (Printed Name)  <i>Roland Atencio</i></p> <p>C. Date of Delivery  12.30.14</p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number  (Transfer from serv/c)</p>		<p>7011 1570 0002 8104 2849</p>	
PS Form 3811, July 2013		Domestic Return Receipt	

UNITED STATES POSTAL SERVICE

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WILL FERGUSON & ASSOCIATES  
Attn: *R. Ferguson*  
1720 Louisiana Blvd NE, Suite 100  
Albuquerque, New Mexico 87110

*M. Hines*

|||||





SIXTH JUDICIAL DISTRICT  
LUNA COUNTY NM  
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Amy Cardenas

STATE OF NEW MEXICO  
COUNTY OF LUNA  
SIXTH JUDICIAL DISTRICT COURT

TONNIE MATHIS,

Plaintiff,

vs.

No. D-619-CV-2014-00370

DAVID L. HANDLEY, FEDERAL EXPRESS  
CORPORATION, FEDEX FREIGHT, INC., and  
FEDEX GROUND PACKAGE SYSTEM, INC.,

Defendants.

**CERTIFICATE OF SERVICE ON DAVID L. HANDLEY**

The undersigned counsel for plaintiff certifies that service of the Summons, Complaint for Damages for Injury, Plaintiff's 1<sup>st</sup> Set of Interrogatories and Plaintiff's 1<sup>st</sup> Set of Request for Production to Defendant David L. Handley was made by certified mail, return receipt requested, pursuant to Rule 1-004 (E)(3) NMRA, on January 2, 2015. The attached Exhibit 1 provides evidence of such service.

Respectfully submitted,

WILL FERGUSON & ASSOCIATES

/s/ Ronald Segel  
RONALD SEGEL  
Attorneys for Plaintiff  
1720 Louisiana Blvd. NE, Suite 100  
Albuquerque, NM 87110  
(505) 243-5566 Telephone  
(505) 243-5699 Facsimile

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<p>1. Article Addressed to:</p> <p>Mr. David L. Handley 16660 Pride Port Hudson Rd. Price, LA 70770</p>		<p>B. Received by (Printed Name) <i>Mike Sturges</i> C. Date of Delivery <i>01/02/15</i></p> <p>AD: Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>2. Article Number (Transfer from ser.) 7011 1570 0002 8104 2863</p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery         </p>	
<p>PS Form 3800, January 2013 PSN 7530-01-000-9000 Domestic Return Receipt</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>PS Form 3800, January 2013 PSN 7530-01-000-9000 Domestic Return Receipt</p>		<p>First-Class Mail Postage &amp; Fees Paid USPS Permit No. G-10</p>	
<p>* Sender: Please print your name, address, and ZIP+4® in this box*</p> <p>RECEIVED JAN 06 2014</p> <p>WILL FERGUSON &amp; ASSOCIATES</p> <p>Attn: <i>RG/gem</i></p> <p>1720 Louisiana Blvd NE, Suite 100</p> <p>Albuquerque, New Mexico 87110</p> <p><i>M. Hines</i></p>			

